IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 772 OF 1992

Union of India ..Appellants

versus

Gulabchand Kachardas Bhutada ..Respondent

Mr. A. N.Samant for the Appellants.

Mr. R. V. Govilkar for the Respondent.

CORAM : D. G. DESHPANDE,J.

DATE : 31ST MARCH,2005

ORAL ORDER :

1. Heard Mr. Samant counsel for the appellants - Union of India and counsel for the respondent.

2. The appeal involves short questions. Firstly, the liability is fixed against both the Railways, viz. Central Railway and as well as South Eastern Railway. There cannot be in the circumstances, and as held by me earlier, the liability of both the railways, and liability of Central Railway only is to be maintained in this appeal.

3. So far as the second question as regards

awarding of interest at 12% per annum from the date of the application till realisation, is concerned, Counsel for the appellants relied upon judgment of this Court reported in **2005 (1) Mh.L.J. 165 Maharashtra State Electricity Board vs. Union of India.** It was a claim against the Railways and the interest was awarded ultimately by the High Court at 9% per annum. I had also followed same judgment earlier, therefore on these two grounds, the appeal is to be partly allowed. Therefore, order :

ORDER

. Appeal is partly allowed.

. Liability of payment will be of the Central Railway only, and not of South Eastern Railway. The amount awarded at Rs.6,882/- with interest the rate of 9% per annum on Rs.6,762/- from the date of application i.e. 21.8.1985 till realisation or till date of payment or deposit with proportionate costs. So far as this appeal is concerned no order as to costs.

. Amount that is found in excess after the aforesaid calculation shall be returned to the appellants. Respondents will be permitted to withdraw the amount as per the calculations.

31.03.2005 (D.G. DESHPANDE, J.)